Ord 2 Series 1982

ORDINANCE #3, Series, 1976

AN ORDINANCE PROSCRIBING GENERAL OFFENSES; PROVIDING PENALTIES; AND REPEALING ORDINANCE NO. 10, SERIES, 1954

The City of Elgin ordains as follows:

SECTION NO. 1. Definitions. The definitions contained in the Oregon Criminal Code of 1971, as now or hereafter constituted, are adopted by reference and made a part of this ordinance. Except where the context clearly indicates a different meaning, the general definitions and the definitions appearing in the definitional and other sections of particular articles of the Code shall be applicable throughout this ordinance.

DISORDERLY CONDUCT AND RELATED OFFENSES

SECTION NO. 2. Menacing. No person shall by word or conduct intentionally attempt to place another person in fear of imminent serious physical injury.

SECTION NO. 3. Recklessly Endangering Another Person. No Person shall recklessly engage in conduct which creates a substantial risk of serious physical injury to another person.

SECTION NO. 4. Disorderly Conduct. No person shall, with intent to cause public inconvenience, annoyance or alarm, or by recklessly creating a risk therof:

(1) Engage in fighting or in violent, tumultuous or threatening behavior.
(2) Use abusive or obscene language, or make an obscene gesture in a public place.
(3) Disturb any lawful assembly of persons without lawful authority.
(4) Obstruct vehicular or pedestrian traffic in or on a public way or public place.
(5) Congregate with other persons in a public place and refuse to comply with a lawful order of the police to disperse.
(6) Initiate or circulate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency.

SECTION NO. 5. Disorderly Conduct at Fires.

(1) No person at or near a fire shall obstruct or impede the fighting of the fire, interfere with fire department personnel, or fire department apparatus, behave in a disorderly manner, or refuse to observe promptly an order of a member of the fire or police department.
(2) For purposes of this section, members of the fire department are endowed with the same powers of arrest as are conferred upon peace officers for violations of city ordinances.

SECTION NO. 6. Harassment. No person shall, with intent to harass, annoy, or alarm another person:

(1) Subject another to offensive physical contact.

(2) Publicly insult another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response.

(3) Communicate with a person, anonymously or otherwise, by telephone, mail, or other form of written communication, in a manner likely to cause annoyance or alarm.

(4) Engage in a course of conduct that alarms or seriously annoys another person and which serves no legitimate purpose.

SECTION NO. 7. Abuse of Venerated Objects.

(1) No person shall intentionally abuse a public monument or structure, a place of worship or burial, or the national or state flag.

(2) As used in this section, "abuse" means to deface, damage, defile, or otherwise physically mistreat in a manner likely to outrage public sensibilities.

SECTION NO. 8. Unnecessary Noise. No person shall create or assist in creating or permit the continuance of unreasonable noise in the city of Elgin. The following enumeration of violations of this section is not exclusive but is illustrative of some unreasonable noises.

(1) The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity.

(2) The use of an engine, thing, or device, which is so loaded, out of repair, or operated in such a manner as to create a loud or unnecessary grating, grinding, rattling or other noise.

(3) The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled.

(4) The construction, including excavation, demolition, alteration or repair, of a building other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the city.

(5) The use or operation of an automatic or electric piano, phonograph, loudspeaker or sound-amplifying device so loudly as to disturb persons in the vicinity thereof, or in such manner as renders the same a public nuisance; provided, however, that upon application to the council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment.

WEAPONS AND FIREWORKS

SECTION, NO 9. Concealed Weapons. Except as provided in ORS 166.260 and 166.290, no person shall carry concealed about his person or in a vehicle a revolver, pistol, or other firearm or any knife other than an ordinary pocket knife, any dirk, dagger, stiletto, nunchaku stick, or any other weapon by the use of which injury could be inflicted upon the person or property of another. For purposes of this section, an ordinary pocket knife is one with a maximum blade length of three and one-half inches which is not a switch-blade or spring-blade knife.

SECTION NO. 10. Discharging Weapons. No person other than an authorized peace officer shall fire or discharge a gun or other weapon, including spring or air-actuated pellet guns, air guns, BB guns, bow and arrow, or any weapon which propels a projectile by use of gunpowder or other explosive, jet, or rocket propulsion. The provisions of this section shall not be construed to prohibit the firing or discharging of a weapon by any person in the defense or protection of his property, person, or family, and shall not prohibit the firing or discharging of a weapon by any person in a supervised firing range or shooting gallery.

SECTION NO. 11. Forfeiture.

(1) Whenever a person is arrested for violating Section 9 or 10 of this ordinance, the weapon shall be confiscated by the arresting officer and delivered to the municipal judge.

(2) If the accused is not convicted, the weapon shall be returned to him, unless his possession of the weapon would violate state or federal law.

(3) If the accused is convicted or the weapon may not be lawfully returned to him, it shall become the property of the City of Elgin. If the weapon can be sold without violating state or federal alw, it may be sold or destroyed as directed by the municipal judge. If the sale of the weapon would be unlawful, it shall be destroyed or become the property of the City of Elgin for training or display purposes.

SECTION NO. 12. Fireworks. The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this ordinance: ORS 480.110, 480.120, 480.130, 480.140 (1), 480.150, and 480.170.

OFFENSES RELATING TO PROPERTY

SECTION NO. 13, Trespass. No person shall enter or remain unlawfully in or upon premises.

SECTION NO. 14. Violating Privacy of Another. No person other than a peace officer performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling not his own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.

SEXUAL AND RELATED OFFENSES

SECTION NO. 15. Accosting for Deviate Purposes. No person shall, while in a public place, invite or request another person to engage in deviate sexual intercourse.

SECTION NO. 16. Public Indecency. No person shall, while in or in view of a public place, perform:

(1) An act of sexual intercourse.
(2) An act of deviate sexual intercourse.
(3) An act of exposing his genitals with the intent of arousing the sexual desire of himself or another person.

(Sections 16 to 20 reserved for expansion)

OFFENSES RELATING TO MINORS

SECTION NO. 21. Children Confined in Vehicles.

(1) No person who has under his control or guidance a child under six years of age shall lock or confine, or leave unattended, or permit the child to be locked or confined or left unattended in a vehicle for a period of time longer than 30 consecutive minutes.
(2) It shall be lawful and the duty of a policeman or other peace officer, finding a child confined in violation of the terms of this section, to enter the vehicle and remove the child, using such force as is reasonably necessary to effect an entrance to the vehicle where the child may be confined, in order to remove the child.

SECTION NO. 22. Endangering Welfare of Minor.

(1) No person shall employ a person under 18 years of age in or about a cardroom, poolroom, billiard parlor or dance hall, unless the establishment is a "recreational facility" as defined in Subsection (3) of Section 23.

(2) No person shall solicit, aid, abet or cause a person under 18 years of age to:

(a) Violate a law of the United States, or a state, or to violate a city or county ordinance.

(b) Run away or conceal himself from a person or institution having lawful custody of the minor.

SECTION NO. 23. Places of Amusement.

(1) No person under 18 years of age shall enter, visit or loiter in or about a public cardroom, poolroom or billiard parlor.

(2) No person operating or assisting in the operation of a public cardroom, poolroom, billiard parlor or public place of amusement shall permit a person under 18 years of age to engage therein in any game of cards, pool, billiards, dice, darts, pinball; games of like character; or games of chance either for amusement or otherwise.

(3) This section shall not apply to the playing of billiards or pool in a recreational facility. As used in this section a "recreational facility" means an area, enclosure, or room in which facilities are offered to the public to play billiards or pool for amusement only, and:

(a) Which is clean, adequately supervised, adequately lighted and ventilated;

(b) In which no alcoholic liquor is sold or consumed; and

(c) Access to which does not require passing through a room where alcoholic liquor is sold or consumed.

OBSTRUCTING GOVERNMENTAL ADMINISTRATION

SECTION NO. 24. Unsworn Falsification. No person shall knowingly make any false written statement to a public servant in connection with an application for any benefit.

SECTION NO. 25. Obstructing Governmental Administration.

(1) No person shall intentionally obstruct, impair or hinder the administration of law or other governmental function by means of intimidation, force or physical interference or obstacle.

(2) This section shall not apply to the obstruction of unlawful governmental action or interference with the making of an arrest.

SECTION NO. 26. Tampering with Public Records. No person shall, without lawful authority, knowingly destroy, mutilate, conceal, remove, make a false entry in or falsely alter any public record.

SECTION NO. 27. Impersonation. No person shall, with intent to obtain a benefit or to injure or defraud another, falsely impersonate a public servant and do an act in such assumed character.

SECTION NO. 28. False Reports.

(1) No person shall knowingly initiate a false alarm or report which is transmitted to a fire department or law enforcement agency or other organization that deals with emergencies involving danger to life or property.

(2) No person shall knowingly make or file with the police department or with the city attorney or a police officer engaged in his official duties a false, misleading or unfounded statement or report concerning the violation of a city ordinance or the commission or alleged commission of a crime.

SECTION NO. 29.. Refusing to Assist in Fire-Fighting Operations. No person shall:

(1) Upon command by a person known by him to be a fireman, unreasonably refuse or fail to assist in extinguishing a fire or protecting property threatened thereby; or

(2) Upon command by a person known by him to be a fireman or peace officer, intentionally and unreasonably disobey a lawful order relating to his conduct in the vicinity of a fire.

SECTION NO. 30 Resisting or Refusing to Aid Officer.

(1) No person shall resist any peace officer acting in the performance of his duties; or, when requested to do so, refuse to assist any such officer in the discharge of his duties; or by any means whatsoever hinder, delay or obstruct any such officer acting in the performance of his duties.

(2) As used in this section, "resist" refers to the ordinary meaning of the term.

(3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make an arrest, provided he was acting under color of his official authority.

SECTION NO. 31. Interfering With Police. No person shall hinder, delay, obstruct, or otherwise interfere with a police officer while in the act of performing his duties.

SECTION NO. 32. Police and Fire Communications. No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of any police or fire department radio communication system.

STREET AND SIDEWALK OFFENSES

SECTION NO. 33. Obstruction of Building Entrances. No person shall obstruct any entrance to any building or loiter unnecessarily about or near any entrance, stairway or hall leading to any building.

SECTION NO. 34. Open Cellar Doors or Grates. No owner or person in charge of property shall permit a cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used and, when being used, there are adequate safeguards for pedestrians using the sidewalk.

SECTION NO. 35. Obstruction of Fire Hydrants. No owner of perperty adjacent to a street upon which is located a fire hydrant, shall place or maintain within eight feet of such fire hydrant, any bush, shrub, or tree, or other obstruction.

MISCELLANEIOUS

SECTION NO. 36. Injury to Fire Apparatus. No person shall lead, ride of drive any animal, or operate any vehicle over or upon any fire hose or disturb or injure in any manner any hose, engine, appliance, or apparatus belonging to or used by the fire department.

SECTION NO. 37. Begging. No person shall accost another in a public place for the purpose of soliciting alms.

SECTION NO. 38. Lodging. No person shall lodge in a car, outbuilding or other place not intended for that purpose without permission of the owner of person entitled to the possession thereof.

SECTION NO. 39. Posted Notices. No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof or from the proper public authority.

SECTION NO. 40. Offensive Littering.

(1) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way.

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank, or other contaminated source upon the land of another without permission of the owner, or upon any public way.

(c) Permit any rubbish, trash, garbage, debris, or other refuse to be thrown from a vehicle which he is operating; except that this subsection shall not apply to a person operating a

vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon, or a person operating a school bus subject of ORS 485.010 to 485.060.

(2) As used in this section, "public way" includes, but is not limited to roads, streets, alleys, lanes, trails, beaches, parks, and all recreational facilities operated by the city, state or county for use by the general public.

SECTION NO. 41. Occult Arts.

(1) "Occult arts" means the use or practice of fortunetelling, astrology, phrenology, palmistry, clairvoyance, mesmerism, spiritualism, or any other practice or practices generally recognized to be unsound and unscientific whereby an attempt or pretense is made:

(a) To reveal or analyze past incidents or events.

(b) To analyze or define the character or personality of a person

(c) To foretell or reveal the future.

(d) To locate by such means lost or stolen property.

(e) To give advice or information concerning any matter or event.

(2) No person shall for hire or profit engage in the practice of occult arts, either public or private.

(3) Nothing in this section shall be construed to prohibit or prevent:

(a) A duly organized and recognized religious organization which promulgates religious teachings or beliefs involving spiritualism or similar media from holding its regular meetings or services.

(b) A school, church, fraternal, charitable or other benevolent organization from utilizing occult arts for a bazaar or other money-raising project; provided, that all money so received is devoted exclusively to the organization sponsoring the affair. In such case, the money so received shall be considered as a donation for benevolent and charitable purposes.

(Sections 41 to 50 reserved for expansion)

GENERAL

SECTION NO. 51. Offenses Outside City Limits. Where permitted by Oregon law, an act made unlawful by this ordinance shall constitute an offense when committed on any property owned or leased by the city, even though outside the corporate limits of the city.

SECTION NO. 52. Soliciting or Confederating to Violate Ordinances. No person shall solicit, aid, abet, employ, or engage another, or confederate with another to violate a provision of this or any other ordinance of the city.

SECTION NO. 53. Attempt to Commit Offenses. A person who shall attempt to commit any of the offenses mentioned in this ordinance or any ordinance of the city, but who for any reason is prevented from consummating such act, shall be deemed guilty of an offense.

SECTION NO. 54. Separate Violations. Whenever in this ordinance, or any ordinance of the city of Elgin, an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.

SECTION NO. 55. Penalties. Violation of any provision of this ordinance is punishable by a fine not to exceed $500.00, or imprisonment not to exceed 60 days, or by both fine and imprisonment; provided, however, if there is a violation of any provision identical to a state statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the state law.

SECTION NO. 56. Severability. The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

SECTION. NO 57. Application of State Statutes. Provisions of the Oregon Criminal Code of 1971, as the same now exists or may hereafter be amended, relating to defenses and burden of proof, general principles of criminal liability, parties and general principles of justification, shall apply to offenses defined and made punishable by this ordinance.

Passed by the coucil this 13 day of April, 1976, at 9 o'clock M.

Approved by the Mayor this 13 day of April, 1976, at 9 o'clock M.

Warren L. Stein
Mayor

Attest: Ronald D. Scoubes
Recorder